

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

H & Q PROPERTIES, INC., a Nebraska  
corporation, MARK HOULTON and JOHN  
QUANDAHL,

Plaintiffs,

vs.

DAVID E. DOLL, an individual, DOUBLE  
D PROPERTIES, L.L.C., a Nebraska limited  
liability company, DDE, INC., a Nebraska  
corporation, f/k/a Double D. Excavating,  
Inc., HNGC, INC., a Nebraska corporation,  
f/k/a Double D Hook-N-Go Containers, Inc.,  
NEBRASKA LOWBOY SERVICES, INC.,  
a Nebraska corporation, DOUBLE D  
EXCAVATING, INC., an Iowa corporation,  
LOAD RITE EXCAVATING, L.L.C., a  
Nebraska limited liability company, f/k/a  
Down Dirty, L.L.C., DOLL  
CONSTRUCTION, L.L.C., a Nebraska  
limited liability company, NEW ERA  
EXCAVATION COMPANY, a Nebraska  
corporation, and MALVERN TRUST &  
SAVINGS BANK, an Iowa state-chartered  
bank,

Defendants.

Case No. 8:13-cv-00038-LSC-FG3

**MALVERN TRUST  
& SAVINGS BANK'S  
MOTION TO DISMISS**

Defendant Malvern Trust & Savings Bank ("Malvern Bank"), by and through counsel, hereby moves this Court, pursuant to Federal Rule of Civil Procedure 12(b)(6), for an order dismissing Plaintiffs' claims against Malvern Bank with prejudice because the Amended Complaint has failed to state a claim upon which relief can be granted against Malvern Bank. Contemporaneous with this Motion to Dismiss, Malvern Bank submits a Brief in Support for this Court's review.

WHEREFORE, Defendant Malvern Trust & Savings Bank respectfully requests this Court to dismiss claims one, two, three, eight, and nine of the Amended Complaint, with prejudice, to the extent such claims are raised against Defendant Malvern Trust & Savings Bank and to dismiss Defendant Malvern Trust & Savings Bank from this action.

Dated this 24th day of February, 2014.

MALVERN TRUST & SAVINGS BANK,  
Defendant

By: s/ Bruce A. Smith

Bruce A. Smith, Bar No. 20162  
Terry C. Dougherty, Bar No. 11064  
Attorneys for Defendant  
WOODS & AITKEN LLP  
301 South 13th Street, Suite 500  
Lincoln, Nebraska 68508  
Telephone: 402-437-8500  
Facsimile: 402-437-8558  
Email: BSmith@woodsaitken.com  
Email: TDougherty@woodsaitken.com

**CERTIFICATE OF SERVICE**

I hereby certify that on February 24, 2014, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which sent electronic notification of such filing to those parties receiving electronic notice herein.

s/ Bruce A. Smith

Bruce A. Smith, Bar No. 20162